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20 Attorneys for Shameika Moody

21 **UNITED STATES DISTRICT COURT**  
22 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

23 SHAMEIKA MOODY as an individual and on  
24 behalf all of others similarly situated,

25 Plaintiff,  
26 vs.

27 CHARMING SHOPPES OF DELAWARE,  
28 INC., a corporation; and DOES 1 through 50,  
inclusive,

29 Defendants.

30 Case No.: C 07-06073 MHP

31 **SUPPLEMENTAL JOINT RULE 26(f)  
32 REPORT**

33 **Judge:** Hon. Marilyn Hall Patel  
34 **Date:** May 5, 2008  
35 **Time:** 2:00 p.m.  
36 **Ctrm.:** 15

1 **TO THE COURT:**2 Pursuant to this Court's Order on March 24, 2008, the Parties hereby submit this  
3 Supplemental Report pursuant to the Local Rules and Rule 26.4  
5 **1. Discovery**6 Per Plaintiff7 Plaintiff met and conferred in person with Defendants' counsel regarding the written  
8 discovery that Plaintiff had previously propounded to Defendant Lane Bryant, Inc. ("LBI") and  
9 Charming Shoppes of Delaware, Inc. ("CSDI") prior to the March 24, 2008 case management  
10 conference. In the interests of avoiding discovery disputes prior to the upcoming mediation and  
11 understanding the Court's suggestion of informal discovery, Plaintiff agreed to allow Defendants to  
12 produce all documents necessary for mediation informally and agreed to Defendants answering 90%  
13 of Plaintiff's interrogatories informally as well.<sup>1</sup> Plaintiff did request that Defendants provide verified  
14 responses to a very few of the interrogatories that Plaintiff propounded, including the types of sales  
15 and non-sales bonuses Defendants paid and whether and how these were included in the calculation of  
16 overtime wages. Plaintiff also asked for a 25% sampling of time data and pay data for the class period  
17 for Lane Bryant stores. Defendants have agreed to provide the formal and informal responses to  
18 Plaintiff's interrogatories on or before May 5, 2008. Defendants have also agreed to provide all of the  
19 remaining requested information and data, including a sampling of the class data, based on a target  
20 date of May 21, 2008. Plaintiff believes that the data requested is vital and necessary in order to be  
21 prepared for mediation such that Plaintiff has done her due diligence if the case settles and so that  
22 class members or potential or actual objectors can be satisfied with the investigation that was made.  
23 Prior to the March 24, 2008 case management conference, Plaintiff had also served Defendant  
24 Charming Shoppes, Inc. ("CSI") with similar written discovery. However, in light of this Court's  
25 order at said case management conference, Plaintiff has not sought discovery responses either formally  
2627  
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<sup>1</sup> Plaintiff also specifically reserved her right to require formal discovery responses if mediation is not  
successful or if Defendants do not produce the needed data pre-mediation. Plaintiff has also requested  
that if the mediation is successful that all data provided pre-mediation informally, will be verified by

1 or informally from CSI until the Court rules on CSI's pending motion to dismiss.

2 On April 8, 2008, Defendant LBI also propounded written interrogatories and  
 3 document production requests upon Plaintiff. Similar to the above, the parties have agreed that  
 4 Plaintiff will provide formal written responses to Defendant LBI with respect to interrogatory numbers  
 5 1, 2, 7, 8, 12, 15, and 16. Based on the parties' agreement, Plaintiff will provide informal responses to  
 6 the remaining outstanding interrogatories, as well as producing documents to Defendants on an  
 7 informal basis. Plaintiff will produce such formal and informal responses and documents by a target  
 8 date of May 30, 2008, but not before Defendants production of the class data, which current target date  
 9 for production is May 21, 2008.

10 Per Defendants

11 Defendant Lane Bryant, Inc. has provided informal interrogatory responses to Plaintiff  
 12 and has produced more than 218 pages of documents to Plaintiff. Lane Bryant also will be providing  
 13 certain formal/verified interrogatory responses, per Plaintiff's request. Lane Bryant has agreed to  
 14 provide Plaintiff with electronic time punch and payroll data regarding a random 25% sampling of  
 15 Lane Bryant's non-exempt California employees during the putative class period. The parties are  
 16 currently meeting and conferring regarding the manner in which the random sampling will be  
 17 achieved. Since the date of the Initial Case Management Conference, Defendants have acted in good  
 18 faith to work with Plaintiff to provide information necessary for a meaningful and productive  
 19 mediation.

20 In turn, Defendants require documents and information from Plaintiff in advance of the  
 21 mediation in order for the mediation to be productive and meaningful. To that end, Plaintiff has  
 22 agreed to provide formal and informal interrogatory responses and produce documents by a target date  
 23 of May 30, 2008. In the event the mediation is unsuccessful or if Plaintiff does not produce the  
 24 needed information pre-mediation, Defendants specifically reserve their right to require formal  
 25 discovery responses.

26  
 27  
 28 Defendants after the mediation.

1                   **2.                   Mediation**

2                   Plaintiff and Defendants have agreed to mediate this case on July 15, 2008 with Jeffrey  
3 Krivis, an experienced private mediator, in a full day session.

4  
5                   **3.                   Procedural Status**

6                   The case against Lane Bryant, Inc. that Plaintiff had filed in the San Francisco Superior  
7 Court after this lawsuit was filed has been dismissed by the San Francisco Superior Court. All the  
8 currently named Defendants in the action before this Court have been served with the complaint and  
9 summons. Lane Bryant, Inc. and CSDI have both filed an answer to Plaintiff's First Amended  
10 Complaint. Charming Shoppes, Inc. has filed a personal jurisdiction challenge that is set for hearing  
11 on May 5, 2008 before this Court.

12  
13                   **4.                   Amendment of the Pleadings**

14                   Per Plaintiff

15                   Plaintiff intends to amend the pleadings as there is no deadline or cut-off on  
16 amendment to modify the complaint to include a claim for unpaid wages owed, and modify the claims  
17 for overtime wages, meal periods, recordkeeping, and unfair practices based on Defendants' policies  
18 of requiring on duty meal periods and based on the sales bonuses and non-sales bonuses paid. After a  
19 deadline is set by the Court, Plaintiff will forward to Defendants any draft of amended Complaints in  
20 the hopes of obtaining a stipulation to file such a document. Plaintiff reserves her right to amend the  
21 pleadings further as discovery proceeds if this case does not resolve at mediation.

22                   Currently there is no deadline for amendment of pleadings, and the Court declined to  
23 set one at the initial status conference. Plaintiff does not believe a deadline is necessary in part  
24 because the parties are working towards mediation and are not conducting full discovery, and in  
25 further part, because Defendants as they are producing additional documents are changing prior  
26 testimony (e.g., CSDI's statement that they have no employees in California to having employees in  
27 California). Thus any deadline would be premature as Plaintiff contends full discovery is necessary

1 before any deadline for amendment to pleadings.

2 Per Defendants

3 Defendants contend that, to the extent Plaintiff intends to amend the Complaint, the  
4 Court should establish a deadline which allows Defendants sufficient time in advance of the July 15,  
5 2008 mediation to investigate and conduct formal/informal discovery regarding the amended claims.

6 Therefore, the Court should set May 30, 2008 as the deadline for any amendments to  
7 the pleadings – any later deadline will not allow Defendants sufficient time to investigate and evaluate  
8 such claims prior to the mediation.

9  
10 **DATED: April 28, 2008**

**LAW OFFICES OF PETER M. HART**

11  
12 By: /S/  
13 **Peter M. Hart, Esq.**  
14 **Attorney for Plaintiff and the class**

15  
16 **DATED: April 28, 2008**

**MORGAN, LEWIS & BOCKIUS LLP**

17  
18 By: /S/  
19 **Eric Meckley, Esq.**  
20 **Attorney for Lane Bryant, Inc. and**  
21 **Charming Shoppes of Delaware, Inc.**